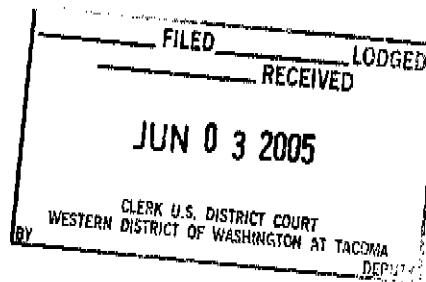


1
2 Keith D. Karnes WSB # 35000
3 Olsen, Olsen & Daines
4 1599 State St.
5 P.O. Box 12829
6 Salem, OR 97309-0829
7 (503)362-9393



IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON

GEORGE HOLT,

Plaintiff,

v.

SHERMAN ACQUISITION
CORPORATION; and FINANCIAL
RECOVERY SERVICES OF
WASHINGTON, INC.,

Defendants.

C05 5369 RJB

Case No.

Complaint for Violation of Fair Debt
Collection Practices Act.

JURY REQUESTED

COMPLAINT AND DEMAND FOR JURY TRIAL

I. INTRODUCTION

1. This is an action for actual and statutory damages brought by Plaintiff, George Holt, an individual consumer, against Defendants, Sherman Acquisition Corporation; and Financial Recovery Services of Washington, Inc., for violations of the Fair Debt Collection Practices Act, 15 U.S.C. § 1692 *et seq* (herein “FDCPA”), which prohibits debt collectors from engaging in abusive, deceptive, and unfair practices.

25 // /



05-CV-05369-CMP

II. JURISDICTION

2. Jurisdiction of this Court arises under 15 U.S.C. § 1692k(d) and 28 U.S.C. § 1337.

Venue in this District is proper because Defendants conduct business in Washington and the conduct complained of occurred within the District.

III. PARTIES

3. Plaintiff, George Holt, is a natural person residing in Vancouver, Washington.

4. Plaintiff is a "consumer" as defined by the FDCPA, 15 U.S.C. § 1692a(3).

5. Defendant, Sherman Acquisition Corporation, (herein "Sherman") is a Georgia corporation engaged in the business of collecting debts in Washington with its principal place of business located in Atlanta, Georgia. The principal purpose of Defendant Sherman is the collection of debts in this state and Defendant Sherman regularly attempts to collect debts alleged to be due another.

6. Defendant Sherman is engaged in the collection of debts from consumers using the mail and telephone. Defendant Sherman regularly attempts to collect consumer debts alleged to be due to another. Defendant Sherman is a "debt collector" as defined by the FDCPA, 15 U.S.C. § 1692a(6).

7. Defendant, Financial Recovery Services of Washington, Inc., (herein "FRS") is a Washington corporation engaged in the business of collecting debts in Washington with its principal place of business located in Lynnwood, Washington. The principal purpose of Defendant FRS is the collection of debts in this state and Defendant FRS regularly attempts to collect debts alleged to be due another.

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1 8. Defendant FRS is engaged in the collection of debts from consumers using the mail
2 and telephone. Defendant FRS regularly attempts to collect consumer debts alleged to be due to
3 another. Defendant FRS is a "debt collector" as defined by the FDCPA, 15 U.S.C. § 1692a(6).

4

5 IV. FACTUAL ALLEGATIONS

6 9. Plaintiff defaulted on Plaintiff's account payment to Sears Roebuck Acceptance Corp.
7 (herein "Sears").

8 10. Plaintiff contacted Sears requesting Plaintiff's account be closed and the accrual of
9 interest and late fees to be stopped.

10 11. Sears refused to honor Plaintiff's request and referred Plaintiff's account to
11 Defendant Sherman for collections.

12 12. Defendant Sherman referred Plaintiff's account to collection agency Pioneer Credit
13 Recovery, Inc. (Exhibit A.)

14 13. Via hand written message written directly onto Plaintiff's billing statement dated
15 January 6, 2005, Plaintiff informed collection agency Pioneer Credit Recovery, Inc. that
16 Plaintiff's only source of income consisted of Social Security Benefits, that Plaintiff would not
17 be paying the debt and requested collection agency Pioneer Credit Recovery, Inc. discontinue
18 contact with Plaintiff. (Exhibit A.)

19 14. Collection agency Pioneer Credit Recovery, Inc. complied with Plaintiff's request.

20 15. Defendant Sherman referred Plaintiff's account to Defendant FRS. (Exhibit B.)

21 16. Via hand written message written directly onto Plaintiff's billing statement dated
22 February 9, 2005, Plaintiff informed Defendant FRS that Plaintiff's only source of income
23 consisted of Social Security Benefits, that Plaintiff would not be paying the debt and requested
24 Defendant FRS discontinuc contact with Plaintiff. (Exhibit B.)

17. Defendant FRS did not comply with Plaintiff's request and contacted Plaintiff again on February 28, 2005 in an attempt to collect Plaintiff's debt owed to Defendant Sherman.
(Exhibit C.)

18. On March 9, 2005, Defendant Sherman's retained law firm contacted Plaintiff in an attempt to collect Plaintiff's debt. Defendant Sherman's retained law firm informed Plaintiff that Plaintiff had thirty (30) days to dispute Plaintiff's debt. (Exhibit D.)

19. On April 13, 2005, Defendant Sherman's retained law firm contacted again Plaintiff in an attempt to collect Plaintiff's debt. (Exhibit E.)

V. CLAIM FOR RELIEF

Claim One

20. Defendants Sherman's actions in continuing to attempt to collect a debt from Plaintiff after Plaintiff notified Defendant Sherman through collection agency Pioneer Credit Recovery, Inc. and Defendant FRS that Plaintiff's only source of income consisted of Social Security Benefits is a violation of the FDCPA, 15 U.S.C. § 1692f(6)(C).

21. Defendant FRS' actions in continuing to attempt to collect a debt from Plaintiff after Plaintiff notified Defendant FRS that Plaintiff's only source of income consisted of Social Security Benefits is a violation of the FDCPA, 15 U.S.C. § 1692f(6)(C).

22. Defendants Sherman's and FRS' actions has caused Plaintiff damages in the form of embarrassment, emotional distress, and attorney fees.

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Claim Two

23. Defendants Sherman's actions in continuing to contact Plaintiff after Plaintiff notified Defendant Sherman through collection agency Pioneer Credit Recovery, Inc. and Defendant FRS that Plaintiff would not be paying Plaintiff's debt is a violation of the FDCPA, 15 U.S.C. § 1692c(c).

24. Defendant FRS' actions in continuing to contact Plaintiff after Plaintiff notified Defendant FRS that Plaintiff would not be paying Plaintiff's debt is a violation of the FDCPA, 15 U.S.C. § 1692c(c).

25. Defendants Sherman's and FRS' actions has caused Plaintiff damages in the form of embarrassment, emotional distress, and attorney fees.

Claim Three

26. Defendants Sherman's actions in continuing to contact Plaintiff after Plaintiff notified Defendant Sherman through collection agency Pioneer Credit Recovery, Inc. and Defendant FRS of Plaintiff's request to no longer be contacted is a violation of the FDCPA, 15 U.S.C. § 1692c(c).

27. Defendant FRS' actions in continuing to contact Plaintiff after Plaintiff notified Defendant FRS of Plaintiff's request to no longer be contacted is a violation of the FDCPA, 15 U.S.C. § 1692c(c).

38. Defendants Sherman's and FRS' actions has caused Plaintiff damages in the form of embarrassment, emotional distress, and attorney fees.

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WHEREFORE, Plaintiff George Holt respectfully requests that judgment be entered against Defendants as follows:

- A. Declaratory Judgment that Defendants' actions violated the FDCPA;
 - B. Actual Damages in the amount of \$1,500.00;
 - C. Statutory Damages pursuant to 15 U.S.C. § 1692k in the amount of \$1,000.00;
 - D. Costs and reasonable attorney's fees pursuant to 15 U.S.C. § 1692k; and
 - E. For such other relief that the Court may deem just and proper.

DATED this 31st day of May, 2005.

By

Keith D. Karnes, WSB # 35000
Attorney for Plaintiff

DEMAND FOR JURY TRIAL

Please take notice that Plaintiff demands trial by jury in this action.

Keith D. Karnes, Attorney for Plaintiff

6341 Inducon Drive East
Sanborn, NY 14132-9097

ADDRESS SERVICE REQUESTED



727574

01/06/2005



26 Edward Street, Arcade, NY 14009 1-877-324-0406

Previous Creditor: Sears - Sears
Current Creditor: Sherman Acquisition
Account Number: 1150089523148
Balance as of the Date of This Notice: \$2005.95

#BWNOLZK
#R000 05C6 4I 65#

██

GEORGE W HOLT
115 N GARRISON RD
VANCOUVER WA 98664 1411

A/69
NHG
500

PO BOX 279
ARCADE NY 14009-0279
██

PLEASE DETACH AND RETURN THIS PORTION WITH PAYMENT

Your past due account(s) have been referred to our agency for collection. If you wish to resolve your obligation, call us toll free at 1-877-324-0406. All payments must come to our office to ensure proper credit to the account. Your failure to resolve your obligation voluntarily may hinder your ability to secure credit in the future.

Sincerely,
Pioneer Credit Recovery, Inc.

Unless you notify this office within 30 days after receiving this notice that you dispute the validity of this debt or any portion thereof, this office will assume this debt is valid. If you notify this office in writing within 30 days from receiving this notice, this office will obtain verification of the debt or a copy of a judgment and mail you a copy of such judgment or verification. If you request in writing within 30 days after receiving this notice, this office will provide you with the name and address of the original creditor, if different from the current creditor.

This is an attempt to collect a debt and any information provided will be used for that purpose. This communication is from a debt collector.

As of the date of this letter, you owe the balance shown on this letter. Because your loan agreement may require you to pay interest on the outstanding portion of your balance, as well as late charges and costs of recovery, which vary from day to day, as you agreed in your loan agreement, the amount required to pay your loan in full on the day you send payment may be greater than the amount stated here. If you pay the amount stated here, an adjustment may be necessary after we receive your payment. In that event, we will notify you of any adjustment in your balance. We encourage you to call prior to making a payment intended to pay your account in full. Please contact us at the address on this letter or call the number listed above.

* Please note the above bar coded address (6341 Inducon Drive East, Sanborn, NY 14132-9097) located in the left hand upper corner of this notice, is not the address of Pioneer Credit Recovery, Inc. This address is for processing undeliverable mail only. Please do not send correspondence or payments to that address. Please send payments or correspondence to P.O. Box 279, Arcade NY 14009.

Washington residents, please be advised that you are hereby notified that there is a possibility of accruing interest or additional fees being added to your account.

Dear Pioneer,
I am 84 yrs old, legally blind,
my income is \$854 social security,
I will never pay this debt,
do not contact me again

*2/3/05
Sext Due*

EXHIBIT A
PAGE 1 OF 1

George W Holt

FINANCIAL RECOVERY SERVICES, INC.

P.O. Box 385908
Minneapolis, MN 55438-5908

P.O. Box 385908
Minneapolis, MN 55438-5908
1-866-518-3740

Return Service Requested

February 9, 2005

X39096
GEORGE W HOLT
115 N GARRISON RD
VANCOUVER WA 98664-1411
██

*Dear FRS,
I am 84 years old, legally
blind, my income is \$854
Social Security. I will never
pay this debt. Do not
contact me again.
George Holt*

HOLT, George

Creditor	Account	Account Balance
SHERMAN ACQUISITION LLP, RETAI	1150089523148	2013.57

*****INITIAL NOTIFICATION*****

THE ACCOUNT(S) LISTED ABOVE HAS BEEN ASSIGNED TO THIS AGENCY FOR COLLECTION. WE ARE A PROFESSIONAL COLLECTION AGENCY ATTEMPTING TO COLLECT A DEBT. WE ARE ENTITLED TO USE, AND WE INTEND TO USE, ALL APPROVED MEANS AT OUR COMMAND TO COLLECT THIS DEBT AND ANY INFORMATION WE OBTAIN WILL BE USED AS A BASIS TO ENFORCE COLLECTION OF THIS DEBT.

UNLESS YOU NOTIFY THIS OFFICE WITHIN 30 DAYS AFTER RECEIVING THIS NOTICE THAT YOU DISPUTE THE VALIDITY OF THIS DEBT OR ANY PORTION THEREOF, THIS OFFICE WILL ASSUME THIS DEBT IS VALID. IF YOU NOTIFY THIS OFFICE IN WRITING WITHIN 30 DAYS OF RECEIVING THIS NOTICE THAT YOU DISPUTE THE VALIDITY OF THIS DEBT OR ANY PORTION THEREOF, THIS OFFICE WILL OBTAIN VERIFICATION OF THE DEBT OR OBTAIN A COPY OF A JUDGMENT AND MAIL YOU A COPY OF SUCH JUDGMENT OR VERIFICATION. IF YOU REQUEST THIS OFFICE IN WRITING WITHIN 30 DAYS AFTER RECEIVING THIS NOTICE THIS OFFICE WILL PROVIDE YOU WITH THE NAME AND ADDRESS OF THE ORIGINAL CREDITOR, IF DIFFERENT FROM THE CURRENT CREDITOR.

THIS COMMUNICATION IS FROM A DEBT COLLECTION AGENCY LICENSED BY THE MINNESOTA DEPARTMENT OF COMMERCE.

SINCERELY,

NICOLE GODFREY
ACCOUNT MANAGER
TOLL FREE: 1-866-518-3740

THIS IS AN ATTEMPT TO COLLECT A DEBT. ANY INFORMATION OBTAINED WILL BE USED FOR THAT PURPOSE. THIS COMMUNICATION IS FROM A DEBT COLLECTOR. SEE REVERSE SIDE FOR IMPORTANT INFORMATION.

Office hours are: Monday-Thursday, 7am to 8pm; Friday 7am to 5pm; Saturday 7am to noon.

Detach and return this portion of this notice with your payment

Note: Any check returned for insufficient Funds or Account Closed will be assessed a \$15.00 charge.

Amount enclosed:

TOTAL BALANCE DUE: \$2013.57

Home phone:

FRS File #: X39096

Work phone:

EXHIBIT B

PAGE 1 OF 2

Financial Recovery Services, Inc.
P.O. Box 385908
Minneapolis, MN 55438-5908
██

GEORGE W HOLT
115 N GARRISON RD
VANCOUVER WA 98664-1411

We are required under certain State and Local Laws to notify consumers of those States or Localities of the following rights. This list does not contain a complete list of the rights consumers have under Federal, State, or Local Laws.

ADDITIONAL INFORMATION FOR CALIFORNIA RESIDENTS

The state Rosenthal Fair Debt Collection Practices Act and the Federal Fair Debt Collection Practices Act require that, except under unusual circumstances, collectors may not contact you before 8a.m. or after 9p.m. They may not harass you by using threats of violence or arrest or by using obscene language. Collectors may not use false or misleading statements or call you at work if they know or have reason to know that you may not receive personal calls at work. For the most part, collectors may not tell another person, other than your attorney or spouse, about your debt. Collectors may contact another person to confirm your location or enforce a judgment. For more information about debt collection activities, you may contact the Federal Trade Commission at 1-877-FTC-HELP or www.ftc.gov.

ADDITIONAL INFORMATION FOR COLORADO RESIDENTS

**FOR INFORMATION ABOUT THE COLORADO FAIR DEBT COLLECTION PRACTICES ACT, SEE
WWW.AGO.STATE.CO.US/CAB.HTM.**

ADDITIONAL INFORMATION FOR MASSACHUSETTS RESIDENTS

NOTICE OF IMPORTANT RIGHTS:

YOU HAVE THE RIGHT TO MAKE A WRITTEN OR ORAL REQUEST THAT TELEPHONE CALLS REGARDING YOUR DEBT NOT BE MADE TO YOU AT YOUR PLACE OF EMPLOYMENT. ANY SUCH ORAL REQUEST WILL BE VALID FOR ONLY TEN (10) DAYS UNLESS YOU PROVIDE WRITTEN CONFIRMATION OF THE REQUEST POSTMARKED OR DELIVERED WITHIN SEVEN (7) DAYS OF SUCH REQUEST. YOU MAY TERMINATE THIS REQUEST BY WRITING TO THE COLLECTION AGENCY.

IF YOU WISH TO DISCUSS THIS MATTER, PLEASE CALL US DIRECT, BETWEEN THE HOURS OF 8AM AND 5PM CST, AT THE NUMBER LISTED ON THE FRONT OF THIS NOTICE.

ADDITIONAL INFORMATION FOR MINNESOTA RESIDENTS

This communication is from a debt collection agency licensed by the Minnesota Department of Commerce.

ADDITIONAL INFORMATION FOR NEW YORK CITY RESIDENTS

This collection agency is licensed by the New York City Department of Consumer Affairs. The license number is 1015506.

ADDITIONAL INFORMATION FOR NORTH CAROLINA RESIDENTS

North Carolina Department of Insurance permit number: 3917 and 4038.

ADDITIONAL INFORMATION FOR TENNESSEE RESIDENTS

This collection agency is licensed by the Collection Service Board, State Department of Commerce and Insurance, 500 James Robertson Parkway, Nashville, TN 37243.

NOTICE FOR ALL CONSUMERS

Our staff is trained to conduct themselves in a businesslike and professional manner, and to leave you with a positive experience in dealing with our Company. Please call (866) 438-2860 with your criticisms, complaints, suggestions or compliments. To discuss the account, please call the number on the front of this letter. For your convenience we do accept VISA and MASTERCARD payment and electronic checks over the telephone. There is a \$1.00 charge to cover the transaction costs for each electronic check submitted. There is also a \$15.00 charge assessed for checks returned to us for insufficient funds.

EXHIBIT B
PAGE 2 OF 2

P.O. Box 385908
Minneapolis, MN 55438-5908

Return Service Requested

February 28, 2005

X39096
GEORGE W HOLT
115 N GARRISON RD
VANCOUVER WA 98664-1411

FINANCIAL RECOVERY SERVICES, INC.

P.O. Box 385908
Minneapolis, MN 55438-5908
1-866-518-3740

Creditor	Account	Account Balance
SHERMAN ACQUISITION LLP, RETAI	1150089523148	2024.30

*******SUBSTANTIAL DISCOUNT*******

WE ARE AUTHORIZED TO SETTLE THE ABOVE LISTED ACCOUNT(S) AT A SUBSTANTIAL DISCOUNT TO YOU!!!!!!

TO MAKE THIS EASIER FOR YOU TO RESOLVE, WE ARE AUTHORIZED TO ACCEPT A SETTLEMENT ON THE ACCOUNT(S) LISTED ABOVE FOR 70% OF THE BALANCE INDICATED. WHEN YOU HAVE SATISFIED THIS AGREEMENT, THE ACCOUNT(S) WILL BE CONSIDERED SETTLED IN FULL AND YOU WILL BE RELEASED OF ALL LIABILITY RELATING TO THE FOREMENTIONED ACCOUNT(S). THIS IS A LUMP SUM OFFER. ALL YOU NEED TO DO IS SEND US 70% OF THE TOTAL DUE AND A COPY OF THIS LETTER AND YOU ARE DONE WITH THIS ACCOUNT FOREVER!! IF THE CREDITOR HAS REPORTED THIS ACCOUNT TO A CREDIT REPORTING AGENCY, IT WILL UPDATE THE REPORT TO REFLECT THE SETTLEMENT OF THIS DEBT.

IF YOU ARE UNABLE TO TAKE ADVANTAGE OF THIS OFFER, PLEASE CALL OUR OFFICE --WE ARE WILLING TO LISTEN TO ANY OFFERS YOU MAY WISH TO MAKE. DEPENDING ON YOUR SITUATION, PAYMENTS MAY STILL BE AN OPTION FOR YOU. IN ANY EVENT, YOU NEED TO RESPOND IMMEDIATELY TO AVOID ANY FURTHER COLLECTION ACTIVITIES.

SINCERELY,

**NICOLE GODFREY
ACCOUNT MANAGER
TOLL FREE: 1-866-518-3740**

THIS IS AN ATTEMPT TO COLLECT A DEBT. ANY INFORMATION OBTAINED WILL BE USED FOR THAT PURPOSE. THIS COMMUNICATION IS FROM A DEBT COLLECTOR. SEE REVERSE SIDE FOR IMPORTANT INFORMATION.

Office hours are: Monday-Thursday, 7am to 8pm; Friday 7am to 5pm; Saturday 7am to noon.

*****Detach and return this portion of this notice with your payment*****

Note: Any check returned for Insufficient Funds or Account Closed will be assessed a \$15.00 charge.

Amount enclosed:

TOTAL BALANCE DUE: \$2024.30

Home phone: _____

FRS File #: X39096

Work phone: _____

Financial Recovery Services, Inc.
P.O. Box 385908
Minneapolis, MN 55438-5908

www.apana.com.au 1300 366 555

GEORGE W HOLT
115 N GARRISON RD
VANCOUVER WA 98664-1411

EXHIBIT C

FREDERICK J. HANNA & ASSOCIATES, P.C.
Attorneys at Law

FREDERICK J. HANNA
ELIZABETH C. WHEALLER
ROY D. REAGIN, JR.
DENNIS E. HENRY
JOHN P. FARRELL
JAMES T. FREANEY

March 9, 2005

1655 ENTERPRISE WAY
MARIETTA, GA 30067

Tel: (770) 916-9220
Fax: (770) 980-0528
Toll Free: (800) 450-6575

05055276
GEORGE W HOLT
115 N GARRISON RD
VANCOUVER WA 98664

**Re: Current Creditor: Sherman Acquisition II
Previous Creditor: Sears - Sears
Reference: 1150089523148
Balance: \$1,805.17**

Dear GEORGE W HOLT

Please be advised that Sherman Acquisition II has purchased the above referenced account from Sears - Sears. This law firm represents Sherman Acquisition regarding your dispute. Please contact this office in order that we may help you resolve this.

Unless you notify this office within thirty (30) days after receiving this notice that you dispute the validity of the debt or any portion thereof, this office will assume this debt is valid. If you notify this office in writing within thirty (30) days from receiving this notice, this office will obtain verification of the debt or obtain a copy of a Judgment and mail you a copy of such Judgment or verification. If you request this office in writing within thirty (30) days after receiving this notice, this office will provide you with the name and address of the original creditor, if different from the current creditor. This is an attempt to collect a debt. Any information obtained will be used for that purpose.

Sincerely,

Dennis E. Henry

DEH/

D
EXHIBIT _____
PAGE _____ OF _____

FREDERICK J. HANNA & ASSOCIATES, P.C.
Attorneys at Law

FREDERICK J. HANNA
ELIZABETH C. WHEALLER
ROY D. REAGIN, JR.
DENNIS E. HENRY
JOHN P. FARRELL
JAMES T. FREANEY

April 13, 2005

1655 ENTERPRISE WAY
MARIETTA, GA 30067

Tel: (770) 916-9220
Fax: (770) 980-0528
Toll Free: (800) 450-6575

05055276
GEORGE W HOLT
115 N GARRISON RD
VANCOUVER WA 98664

Re: Current Creditor: Sherman Acquisition II
Previous Creditor: Sears - Sears
Reference# 1150089523148
Balance: \$1,805.17

Dear GEORGE W HOLT

I had previously written you regarding your debt obligation placed with my law firm for collection. I had hoped that you would have satisfied this matter to avoid any additional past due interest, attorney fees, and court cost that may be added to your account should this matter proceed to litigation. It is not my wish to refer your account to local counsel in your area in order to proceed with litigation, but you may leave me with no choice.

In order to resolve the account without litigation, our client is offering to settle the debt. The settlement offer is for 70% of the above unpaid balance payable and received in our office within fifteen days from the date of this letter. Upon receipt, my client will be notified of the funds received and they will mark the account settled.

This is an attempt to collect a debt. Any information obtained will be used for that purpose. Please govern yourself accordingly.

William J. Lau
Director of Operations

WJL/mtc

EXHIBIT E
PAGE 1 OF 1